

challenge to MARY LANDRIEU, which took some time, at least before noon.

Mr. DASCHLE. Again, I reiterate, we also had the text of this agreement. The substantive portions of this agreement have all been transmitted to every Democratic office now for some time. It should be in the office of every Senator. Every Democratic Senator and staff should have been well aware of it. We then faxed the specific agreement about an hour ago.

Mr. BYRD. I have not seen that. That is not the leader's fault. That may have been my office. It has not been called to my attention. I will discuss that with my staff. The leader knows we are very short in our staffs—short-handed. I will go back and take a look at that.

There is one thing I thought I had clearly understood, and that was when we have an agreement and we go to third reading and part of the agreement is to the effect that we go immediately after third reading without further action or debate to final passage, I objected to that last year, but I see that the agreements that are being proposed now go back to that same kind of phraseology. I am a little troubled by that.

Mr. DASCHLE. If I could say, the distinguished Senator from West Virginia has made himself very clear on this point. I agree with him.

I think that we ought to use the language that will allow for consideration of final passage after reaching the third reading, which is what the Senator has suggested.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I renew my previous unanimous-consent request, which I read into the RECORD in its entirety, with two changes. On the second page, I would make this change:

That the first 28 conditions, declarations, statements, and understandings shall be identified as being agreed to between the chairman and the ranking minority member, that these 28 conditions, declarations, statements, or understandings not be subject to further amendments or motions, and a vote occur on adoption of Executive Resolution 75 to be followed by a vote on the agreed-upon 28 items, and, if agreed to, the motion or motions to reconsider be laid upon the table.

Basically what that is saying is that there would be a voice vote on the underlying resolution and on the 28 conditions and declarations.

Also, at the end of the unanimous-consent request, I would make this request:

I further ask that Senator LEAHY be recognized for up to 1 hour on Wednes-

day, April 23, and that prior to the adoption of the resolution or ratification there be an additional 10 minutes equally divided between the two leaders at that time.

Mr. DASCHLE. Mr. President, reserving the right to object, let me just say that I think this has again addressed all of the concerns raised. And I appreciate very much everyone's cooperation here. The clock is ticking. We are losing time. We need to get on with consideration of the Kyl bill. And I hope now that we can enter into this unanimous-consent agreement.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. Is there objection?

No objection is heard.

Mr. KYL. Mr. President, reserving the right to object, I want to clarify that this will be a voice vote on both of the two matters indicated in the unanimous-consent request.

Mr. LOTT. Mr. President, I absolutely confirm that that is the case.

Mr. LEAHY. Reserving the right to object, I shall not object, the voice vote on the which?

Mr. LOTT. On the underlying resolution of the committee and on the 28 conditions that have been agreed to.

The PRESIDING OFFICER. No objection is heard.

Without objection, it is so ordered.

#### CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1997

Mr. LOTT. I ask unanimous consent that the Senate now proceed to the consideration of S. 495, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 495) to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, first of all, I understand that the amendment which was referred to in the unanimous-consent agreement as the modified bill is at the desk.

The PRESIDING OFFICER. The modification is at the desk.

The modification follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Chemical and Biological Weapons Threat Reduction Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Policy.

Sec. 4. Definitions.

#### TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

##### Subtitle A—Criminal and Civil Penalties

Sec. 101. Criminal and civil provisions.

##### Subtitle B—Revocations of Export Privileges

Sec. 111. Revocations of export privileges.

#### TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

Sec. 201. Sanctions for use of chemical or biological weapons.

Sec. 202. Continuation and enhancement of multilateral control regimes.

Sec. 203. Criteria for United States assistance to Russia relating to the elimination of chemical and biological weapons.

Sec. 204. Report on the state of chemical and biological weapons proliferation.

Sec. 205. International conference to strengthen the 1925 Geneva Protocol.

Sec. 206. Restriction on use of funds for the Organization for the Prohibition of Chemical Weapons.

Sec. 207. Enhancements to robust chemical and biological defenses.

Sec. 208. Negative security assurances.

Sec. 209. Riot control agents.

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States eliminated its stockpile of biological weapons pursuant to the 1972 Biological Weapons Convention and has pledged to destroy its entire inventory of chemical weapons by 2004, independent of the Chemical Weapons Convention entering into force;

(2) the use of chemical or biological weapons in contravention of international law is abhorrent and should trigger immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately "appropriate and effective" sanctions against any nation using chemical and biological weapons in violation of international law;

(4) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as legitimate grounds for limiting trade; title XXI of the General Agreement on Tariffs and Trade states that "nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests. . . .";

(5) on September 30, 1993, the President declared by Executive Order No. 12868 a national emergency to deal with "the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States" posed by the proliferation of nuclear, biological and chemical weapons, and of the means for delivering such weapons;

(6) Russia has not implemented the 1990 United States-Russian Bilateral Agreement on Destruction and Non-Production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, known as the "BDA", nor has the United States and Russia resolved, to the satisfaction of the United States, the outstanding compliance issues under the Memorandum of Understanding Between the United States of America and

the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related To Prohibition on Chemical Weapons, known as the "1989 Wyoming MOU";

(7) the Intelligence Community has stated that a number of countries, among them China, Egypt, Iran, Iraq, Libya, North Korea, Syria, and Russia, possess chemical and biological weapons and the means to deliver them;

(8) four countries in the Middle East—Iran, Iraq, Libya, and Syria—have, as a national policy, supported international terrorism;

(9) chemical and biological weapons have been used by states in the past for intimidation and military aggression, most recently during the Iran-Iraq war and by Iraq against its Kurdish minority;

(10) the grave new threat of chemical and biological terrorism has been demonstrated by the 1995 nerve gas attack on the Tokyo subway by the Japanese cult Aum Shinrikyo;

(11) the urgent need to improve domestic preparedness to protect against chemical and biological threats was underscored by enactment of the 1997 Defense Against Weapons of Mass Destruction Act;

(12) the Department of Defense, in light of growing chemical and biological threats in regions of key concern, including Northeast Asia, and the Middle East, has stated that United States forces must be properly trained and equipped for all missions, including those in which opponents might threaten use of chemical or biological weapons; and

(13) Australia Group controls on the exports of chemical and biological agents, and related equipment, and the Missile Technology Control Regime, together provide an indispensable foundation for international and national efforts to curb the spread of chemical and biological weapons, and their delivery means.

### SEC. 3. POLICY.

It should be the policy of the United States to take all appropriate measures to—

(1) prevent and deter the threat or use of chemical and biological weapons against the citizens, Armed Forces, and territory of the United States and its allies, and to protect against, and manage the consequences of, such use should it occur;

(2) discourage the proliferation of chemical and biological weapons, their means of delivery, and related equipment, material, and technology;

(3) prohibit within the United States the development, production, acquisition, stockpiling, possession, and transfer to third parties of chemical or biological weapons, their precursors and related technology; and

(4) impose unilateral sanctions, and seek immediately international sanctions, against any nation using chemical and biological weapons in violation of international law.

### SEC. 4. DEFINITIONS.

In this Act:

(1) **AUSTRALIA GROUP.**—The term "Australia Group" refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical weapons and biological weapons.

(2) **BIOLOGICAL WEAPON.**—The term "biological weapon" means the following, together or separately:

(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa),

pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

(iii) deleterious alteration of the environment.

(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) **CHEMICAL WEAPON.**—The term "chemical weapon" means the following, together or separately:

(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methylchloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

(B) Any of the 54 chemicals other than a riot control agent that is controlled by the Australia Group as of the date of the enactment of this Act.

(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

(4) **KNOWINGLY.**—The term "knowingly" is used within the meaning of "knowing" as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

(5) **NATIONAL OF THE UNITED STATES.**—The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(6) **PERSON.**—The term "person" means any individual, corporation, partnership, firm, association, or other legal entity.

(7) **RIOT CONTROL AGENT.**—The term "riot control agent" means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-quinuclidinyl benzilate, that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

(8) **UNITED STATES.**—The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (18) and (36) of section 40102 of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

## TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

### Subtitle A—Criminal and Civil Penalties

#### SEC. 101. CRIMINAL AND CIVIL PROVISIONS.

(a) **IN GENERAL.**—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

#### "CHAPTER 11B—CHEMICAL AND BIOLOGICAL WEAPONS

"Sec.

"229. Prohibited activities.

"229A. Penalties.

"229B. Criminal forfeitures; destruction of weapons.

"229C. Other prohibitions.

"229D. Injunctions.

"229E. Requests for military assistance to enforce prohibition in certain emergencies.

"229F. Definitions.

#### "§ 229. Prohibited activities.

"(a) **UNLAWFUL CONDUCT.**—Except as provided in subsections (b) and (c), it shall be unlawful for any person knowingly—

"(1) to develop, produce, otherwise acquire, transfer, directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon or any biological weapon; or

"(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

"(b) **EXEMPTED CONDUCT.**—Subsection (a) does not apply to conduct that satisfies the following requirements of both paragraphs (1) and (2):

"(1) **LAWFUL PURPOSE.**—The chemical weapon or biological weapon is intended for any of the following purposes:

"(A) **PEACEFUL PURPOSES.**—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

"(B) **PROTECTIVE PURPOSES.**—Any purpose directly related to protection against a chemical or biological weapon.

"(C) **UNRELATED MILITARY PURPOSES.**—Any military purpose of the United States that is not connected with the use of a chemical weapon or biological weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon or biological weapon to cause death or other harm.

"(D) **LAW ENFORCEMENT PURPOSES.**—Any law enforcement purpose, including any domestic riot control purpose.

"(E) **INDIVIDUAL SELF-DEFENSE PURPOSES.**—Any individual self-defense purpose involving a pepper spray or chemical mace.

"(2) **LIMITATION ON TYPE AND QUANTITY.**—

"(A) **IN GENERAL.**—The type and quantity of the chemical weapon or biological weapon is strictly limited to the type and quantity that can be justified for the purpose intended under paragraph (1).

"(B) **EXCESSIVE QUANTITIES PER PERSON.**—The requirement of this paragraph is not satisfied if the quantity per person at any given time is, under the circumstances, inconsistent with the purpose intended under paragraph (1).

"(c) **EXEMPTED AGENCIES AND PERSONS.**—

"(1) **IN GENERAL.**—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon or a biological weapon by a department,

agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

“(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

“(A) a member of the Armed Forces of the United States or any other person that is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical or biological weapon; or

“(B) in an emergency situation, any other person if the person is attempting to destroy or seize the weapon or if the person is a victim of the use of the weapon.

“(d) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States;

“(2) takes place outside of the United States and is committed by a national of the United States;

“(3) is committed against a national of the United States while the national is outside the United States; or

“(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

#### “§ 229A. Penalties

“(a) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates section 229 of this title shall be fined under this title, or imprisoned for any term of years, or both.

“(2) DEATH PENALTY.—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisonment for life.

“(b) CIVIL PENALTIES.—

“(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 229 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed \$100,000 for each such violation.

“(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

“(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

#### “§ 229B. Criminal forfeitures; destruction of weapons

“(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

“(1) any property, real or personal, involved in the offense, including any chemical weapon or biological weapon;

“(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and

“(3) any of the person's property used, or intended to be used, in any manner or part,

to commit, or to facilitate the commission of, such violation.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to section 229A(a), that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by section 229A(a), a defendant who derived profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

“(b) PROCEDURES.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

“(1) ‘this subchapter or subchapter II’ shall be deemed to be a reference to section 229A(a); and

“(2) ‘subsection (a)’ shall be deemed to be a reference to subsection (a) of this section.

“(c) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical or biological weapon seized and forfeited pursuant to this section.

“(d) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

#### “§ 229C. Other prohibitions

“(a) IN GENERAL.—Whoever knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than 10 years, or both.

“(b) JURISDICTION.—Conduct prohibited by this section is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States;

“(2) takes place outside of the United States and is committed by a national of the United States;

“(3) is committed against a national of the United States while the national is outside the United States; or

“(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

#### “§ 229D. Injunctions

“The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 229 or 229C of this title; or

“(2) the preparation or solicitation to engage in conduct prohibited under section 229 or 229C of this title.

#### “§ 229E. Requests for military assistance to enforce prohibition in certain emergencies

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a biological weapon or chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

#### “§ 229F. Definitions

“In this chapter:

“(1) AUSTRALIA GROUP.—The term ‘Australia Group’ refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological weapons pro-

liferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical and biological weapons.

“(2) BIOLOGICAL WEAPON.—The term ‘biological weapon’ means the following, together or separately:

“(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

“(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

“(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

“(iii) deleterious alteration of the environment.

“(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

“(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

“(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

“(3) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

“(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

“(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

“(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

“(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

“(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

“(4) KNOWINGLY.—The term ‘knowingly’ is used within the meaning of ‘knowing’ as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2).

“(5) NATIONAL OF THE UNITED STATES.—The term ‘national of the United States’ has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

“(6) PERSON.—The term ‘person’ means any individual, corporation, partnership, firm, association, or other legal entity.

“(7) RIOT CONTROL AGENT.—The term ‘riot control agent’ means any substance, including diphenylchloroarsine, diphenylcyanoarsine, adamsite, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate that is designed or used to produce rapidly in

humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

“(8) **TERRORISM.**—The term ‘terrorism’ means activities that—

“(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by assassination or kidnapping.

“(9) **UNITED STATES.**—The term ‘United States’ means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

“(A) any of the places within the provisions of section 40102(41) of title 49, United States Code;

“(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (16) and (37), respectively, of section 40102 of title 49, United States Code; and

“(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).”

(b) **CONFORMING AMENDMENTS.**—

(1) **WEAPONS OF MASS DESTRUCTION.**—Section 2332a of title 18, United States Code, is amended—

(A) by striking “**§2332a. Use of weapons of mass destruction**” and inserting “**§2332a. Use of certain weapons of mass destruction**”;

(B) in subsection (a), by striking “, including any biological agent, toxin, or vector (as those terms are defined in section 178)” and inserting “other than a chemical weapon or biological weapon (as those terms are defined in section 229F)”; and

(C) in subsection (b), by inserting “(other than a chemical weapon or biological weapon (as those terms are defined in section 229F))” after “weapon of mass destruction”.

(2) **TABLE OF CHAPTERS.**—The table of chapters for part I of title 18, United States Code, is amended—

(A) by striking the item relating to chapter 10; and

(B) by inserting after the item for chapter 11A the following new item:

**“11B. Chemical and Biological Weapons ..... 229”.**

(c) **REPEALS.**—The following provisions of law are repealed:

(1) Chapter 10 of title 18, United States Code, relating to biological weapons.

(2) Section 2332c of title 18, United States Code, relating to chemical weapons.

(3) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

#### **Subtitle B—Revocations of Export Privileges**

##### **SEC. 111. REVOCATIONS OF EXPORT PRIVILEGES.**

If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 229 of title 18, United States Code, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of

the Export Administration Act of 1979 (50 U.S.C. App. 2415)).

#### **TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS**

##### **SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.**

Title III of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182) is amended—

(1) by redesignating section 309 as section 312; and

(2) by striking sections 306 through 308 and inserting the following new sections:

##### **“SEC. 306. PURPOSE.**

“The purpose of sections 306 through 311 is—

“(1) to provide for the imposition of sanctions against any foreign government—

“(A) that has used chemical or biological weapons in violation of international law; or

“(B) that has used chemical or biological weapons against its own nationals; and

“(2) to ensure that the victims of the use of chemical or biological weapons shall be compensated and awarded punitive damages, as may be determined.

##### **“SEC. 307. PRESIDENTIAL DETERMINATION.**

“(a) **BILATERAL SANCTIONS.**—Except as provided in subsections (c) and (d), the President shall, after the consultation with Congress, impose the sanctions described in subsections (a) and (b) of section 308 if the President determines that any foreign government—

“(1) has used a chemical weapon or biological weapon in violation of international law; or

“(2) has used a chemical weapon or biological weapon against its own nationals.

“(b) **MULTILATERAL SANCTIONS.**—The sanctions imposed pursuant to subsection (a) are in addition to any multilateral sanction or measure that may be otherwise agreed.

“(c) **PRESIDENTIAL WAIVER.**—The President may waive the application of any of the sanctions imposed pursuant to subsection (a) if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that implementing such measures would have a substantial negative impact upon the supreme national interests of the United States.

“(d) **SANCTIONS NOT APPLIED TO CERTAIN EXISTING CONTRACTS.**—A sanction described in section 308 shall not apply to any activity pursuant to a contract or international agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that performance of the activity would reduce the potential for the use of a chemical weapon or biological weapon by the sanctioned country.

##### **“SEC. 308. MANDATORY SANCTIONS.**

“(a) **MINIMUM NUMBER OF SANCTIONS.**—After consultation with Congress and making a determination under section 307 with respect to the actions of a foreign government, the President shall impose not less than 5 of the following sanctions against that government for a period of three years:

“(1) **FOREIGN ASSISTANCE.**—The United States Government shall terminate assistance under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

“(2) **ARMS SALES.**—The United States Government shall not sell any item on the United States Munitions List and shall terminate sales to that country under this Act of any defense articles, defense services, or design and construction services. Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List, or for commercial satellites.

“(3) **ARMS SALE FINANCING.**—The United States Government shall terminate all foreign military financing under this Act.

“(4) **DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.**—The United States Government shall deny any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

“(5) **EXPORT CONTROLS.**—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on that part of the control list established under section 5(c)(1) of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.

“(6) **MULTILATERAL BANK ASSISTANCE.**—The United States shall oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance by international financial institutions.

“(7) **BANK LOANS.**—The United States Government shall prohibit any United States bank from making any loan or providing any credit, including to any agency or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

“(8) **AVIATION RIGHTS.**—

“(A) **IN GENERAL.**—

“(i) **NOTIFICATION.**—The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 307(a) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

“(ii) **SUSPENSION OF AVIATION RIGHTS.**—Within 10 days after the date of notification of a government under subclause (i), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

“(B) **TERMINATION OF AIR SERVICE AGREEMENTS.**—

“(i) **IN GENERAL.**—The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 307(a), in accordance with the provisions of that agreement.

“(ii) **TERMINATION OF AVIATION RIGHTS.**—Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

“(C) **EXCEPTION.**—The Secretary of Transportation may provide for such exceptions from the sanction contained in subparagraph (A) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

“(D) **DEFINITIONS.**—For purposes of this paragraph, the terms ‘aircraft’, ‘air transportation’, and ‘foreign air carrier’ have the meanings given those terms in section 40102 of title 49, United States Code.

“(9) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic privileges between the United States and that country.

“(b) BLOCKING OF ASSETS.—Upon making a determination under section 307, the President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which the foreign country or any national thereof has any interest whatsoever, for the purpose of compensating the victims of the chemical or biological weapons use and for punitive damages as may be assessed.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section limits the authority of the President to impose a sanction that is not specified in this section.

#### “SEC. 309. REMOVAL OF SANCTIONS.

“(a) CERTIFICATION REQUIREMENT.—The President shall remove the sanctions imposed with respect to a foreign government pursuant to this section if the President determines and so certifies to the Congress, after the end of the three-year period beginning on the date on which sanctions were initially imposed on that country pursuant to section 307, that—

“(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

“(2) the government of the country is willing to accept onsite inspections or other reliable measures to verify that the government is not making preparations to use any chemical weapon or biological weapon in violation of international law or to use any chemical weapon or biological weapon against its own nationals; and

“(3) the government of the country is making restitution to those affected by any use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

“(b) REASONS FOR DETERMINATION.—The certification made under this subsection shall set forth the reasons supporting such determination in each particular case.

“(c) EFFECTIVE DATE.—The certification made under this subsection shall take effect on the date on which the certification is received by the Congress.

#### “SEC. 310. NOTIFICATIONS AND REPORTS OF CHEMICAL OR BIOLOGICAL WEAPONS USE AND APPLICATION OF SANCTIONS.

“(a) NOTIFICATION.—Not later than 30 days after persuasive information becomes available to the executive branch of Government indicating the substantial possibility of the use of chemical or biological weapons by any person or government, the President shall so notify Congress in writing.

“(b) REPORT.—Not later than 60 days after making a notification under subsection (a), the President shall submit a report to Congress that contains—

“(1) an assessment by the President in both classified and unclassified form of the circumstances of the suspected use of chemical or biological weapons, including any determination by the President made under section 307 with respect to a foreign government; and

“(2) a description of the actions the President intends to take pursuant to the assessment, including the imposition of any sanctions or other measures pursuant to section 307.

“(c) PROGRESS REPORT.—Not later than 60 days after submission of a report under subsection (b), the President shall submit a progress report to Congress describing actions undertaken by the President under sections 306 through 311, including the imposi-

tion of unilateral and multilateral sanctions and other punitive measures, in response to the use of any chemical weapon or biological weapon described in the report.

“(d) RECIPIENTS OF NOTIFICATIONS AND REPORTS.—Any notification or report required by this section shall be submitted to the following:

“(1) The Majority Leader of the Senate and the Speaker of the House of Representatives.

“(2) The Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

“(3) The Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

#### “SEC. 311. DEFINITIONS.

“In sections 306 through 310:

“(1) BIOLOGICAL WEAPON.—The term ‘biological weapon’ means the following, together or separately:

“(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

“(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

“(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

“(iii) deleterious alteration of the environment.

“(B) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of those biological weapons specified in subparagraph (A).

“(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

“(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

“(2) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

“(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, phenyldichloroarsine, ethyldichloroarsine, methyldichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

“(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of the enactment of this Act.

“(C) Any other chemical agent that may be developed if the use of the agent would be intended to produce an effect consistent with that of a chemical agent or other chemical described in subparagraph (A) or (B).

“(D) Any munition or device specifically designed to cause death or other harm through the release, dissemination, or impact of the toxic or poisonous properties of a chemical weapon specified in subparagraph (A), (B), or (C).

“(E) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (D).

“(3) PERSON.—The term ‘person’ means any individual, corporation, partnership, firm, association, or other legal entity.”.

#### “SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTILATERAL CONTROL REGIMES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any collapse of the informal forum of states known as the “Australia

Group”, either through changes in membership or lack of compliance with common export controls, or any substantial weakening of common Australia Group export controls and nonproliferation measures in force as of the date of enactment of this Act, would seriously undermine international and national efforts to curb the spread of chemical and biological weapons and related equipment.

(b) POLICY.—It shall be the policy of the United States—

(1) to continue close cooperation with other countries in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals and biological agents applicable to weapons production;

(2) to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of enactment of this Act;

(3) to block any effort by any Australia Group member to achieve Australia Group consensus on any action that would substantially weaken existing common Australia Group export controls and nonproliferation measures or otherwise undermine the effectiveness of the Australia Group; and

(4) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to the production of chemical or biological weapons in order to devise and harmonize the most effective national controls possible on the transfer of such materials, equipment, and technology.

(c) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall determine and certify to Congress whether—

(1) the Australia Group continues to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal, and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of the last certification under this subsection, or, in the case of the first certification, the level of control maintained as of the date of enactment of this Act; and

(2) the Australia Group remains a viable mechanism for curtailing the spread of chemical and biological weapons-related materials and technology, and whether the effectiveness of the Australia Group has been undermined by changes in membership, lack of compliance with common export controls, or any weakening of common controls and measures that are in effect as of the date of enactment of this Act.

(d) CONSULTATIONS.—

(1) IN GENERAL.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export controls and nonproliferation measures.

(2) RESULTING FROM PRESIDENTIAL CERTIFICATION.—If the President certifies that either of the conditions in subsection (c) are not met, the President shall consult within 60 days of such certification with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on steps the United States should take to maintain effective international controls on chemical and

biological weapons-related materials and technology.

**SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO RUSSIA RELATING TO THE ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, United States assistance described in subsection (d) may not be obligated or expended unless a certification by the President is in effect under subsection (b) or subsection (c).

(b) **CERTIFICATION WITH RESPECT TO RUSSIAN CHEMICAL AND BIOLOGICAL PROGRAM.**—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall certify that—

(1) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(2) the United States and Russia have made substantial progress toward resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement;

(3) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons production facilities, and other facilities associated with the development of chemical weapons; and

(4) Russia is in compliance with its obligations under the Biological Weapons Convention.

(c) **ALTERNATIVE CERTIFICATION.**—A certification under this subsection is a certification by the President that the President is unable to make a certification under subsection (b).

(d) **PERIOD OF EFFECTIVENESS OF CERTIFICATIONS.**—Each certification made under this section shall not be effective for a period of more than one year.

(e) **UNITED STATES ASSISTANCE COVERED.**—United States assistance described in this subsection is United States assistance out of funds made available for fiscal year 1998 or any fiscal year thereafter that is provided with respect to Russia only for the purposes of—

(1) facilitating the transport, storage, safeguarding, and elimination of any chemical weapon or biological weapon or its delivery vehicle;

(2) planning, designing, or construction of any destruction facility for a chemical weapon or biological weapon; or

(3) supporting any international science and technology center.

(f) **DEFINITIONS.**—

(1) **BILATERAL DESTRUCTION AGREEMENT.**—The term “Bilateral Destruction Agreement” means Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Non-production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) **BIOLOGICAL WEAPONS CONVENTION.**—The term “Biological Weapons Convention” means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(3) **WYOMING MEMORANDUM OF UNDERSTANDING.**—The term “Wyoming Memorandum of Understanding” means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(4) **UNITED STATES ASSISTANCE.**—The term “United States assistance” has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

**SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION.**

Not later than 180 days after the date of enactment of this Act, and every year thereafter, the President shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate a report containing the following:

(1) **PROLIFERATION BY FOREIGN COUNTRIES.**—A description of any efforts by China, Egypt, India, Iran, Iraq, Libya, North Korea, Pakistan, Russia, and Syria, and any country that has, during the five years prior to submission of the report, used any chemical weapon or biological weapon or attempted to acquire the material and technology to produce and deliver chemical or biological agents, together with an assessment of the present and future capability of the country to produce and deliver such agents.

(2) **FOREIGN PERSONS ASSISTING IN PROLIFERATION.**—An identification of—

(A) those persons that in the past have assisted the government of any country described in paragraph (1) in that effort; and

(B) those persons that continue to assist the government of the country described in paragraph (1) in that effort as of the date of the report.

(3) **THIRD COUNTRY ASSISTANCE IN PROLIFERATION.**—An assessment of whether and to what degree other countries have assisted any government or country described in paragraph (1) in its effort to acquire the material and technology described in that paragraph.

(4) **INTELLIGENCE INFORMATION ON THIRD COUNTRY ASSISTANCE.**—A description of any confirmed or credible intelligence or other information that any country has assisted the government of any country described in paragraph (1) in that effort, either directly or by facilitating the activities of the persons identified in subparagraph (A) or (B) of paragraph (3), but took no action to halt or discourage such activities.

(5) **INTELLIGENCE INFORMATION ON SUBNATIONAL GROUPS.**—A description of any confirmed or credible intelligence or other information of the development, production, stockpiling, or use, of any chemical weapon or biological weapon by subnational groups, including any terrorist or paramilitary organization.

(6) **FUNDING PRIORITIES FOR DETECTION AND MONITORING CAPABILITIES.**—An identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical weapons and biological weapons.

**SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN THE 1925 GENEVA PROTOCOL.**

(a) **DEFINITION.**—In this section, the term “1925 Geneva Protocol” means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva June 17, 1925 (26 UST 71; TIAS 8061).

(b) **POLICY.**—It shall be the policy of the United States—

(1) to work to obtain multilateral agreement to effective, international enforcement mechanisms to existing international agreements that prohibit the use of chemical and biological weapons, to which the United States is a state party; and

(2) pursuant to paragraph (1), to work to obtain multilateral agreement regarding the collective imposition of sanctions and other measures described in title III of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, as amended by this Act.

(c) **RESPONSIBILITY.**—The Secretary of State shall, as a priority matter, take steps necessary to achieve United States objectives, as set forth in this section.

(d) **SENSE OF THE SENATE.**—The Senate urges and directs the Secretary of State to work to convene an international negotiating forum for the purpose of concluding an international agreement on enforcement of the 1925 Geneva Protocol.

(e) **ALLOCATION OF FUNDS.**—Of the amount authorized to be appropriated to the Department of State for fiscal year 1998 under the appropriations account entitled “International Conferences and Contingencies”, \$5,000,000 shall be available only for payment of salaries and expenses in connection with efforts of the Secretary of State to conclude an international agreement described in subsection (d).

**SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.**

(a) **PROHIBITION.**—None of the funds appropriated pursuant to any provision of law, including previously appropriated funds, may be available to make any voluntary or assessed contribution to the Organization for the Prohibition of Chemical Weapons, or to reimburse any account for the transfer of in-kind items to the Organization, unless or until the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature at Paris January 13, 1993, enters into force for the United States.

(b) **STATUTORY CONSTRUCTION.**—Nothing in subsection (a) may be construed to apply to the Preliminary Commission for the establishment of the Organization for the Prohibition of Chemical Weapons.

**SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the threats posed by chemical and biological weapons to United States Armed Forces deployed in regions of concern will continue to grow and will undermine United States strategies for the projection of United States military power and the forward deployment of United States Armed Forces;

(2) the use of chemical or biological weapons will be a likely condition of future conflicts in regions of concern;

(3) it is essential for the United States and key regional allies of the United States to preserve and further develop robust chemical and biological defenses;

(4) the United States Armed Forces, both active and nonactive duty, are inadequately equipped, organized, trained, and exercised for operations in chemically and biologically contaminated environments;

(5) the lack of readiness stems from a de-emphasis by the executive branch of Government and the United States Armed Forces on chemical and biological defense;

(6) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(7) congressional direction contained in the 1997 Defense Against Weapons of Mass Destruction Act is intended to lead to enhanced domestic preparedness to protect against the use of chemical and biological weapons; and

(8) the United States Armed Forces should place increased emphasis on potential threats to deployed United States Armed Forces and, in particular, should make countering the use of chemical and biological weapons an organizing principle for United States defense strategy and for the development of force structure, doctrine, planning, training, and exercising policies of the United States Armed Forces.

(b) **DEFENSE READINESS TRAINING.**—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans despite the threat or use of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in chemically and biologically contaminated environments that are critical to the success of United States military plans in regional conflicts, including—

(1) deployment, logistics, and reinforcement operations at key ports and airfields;

(2) sustained combat aircraft sortie generation at critical regional airbases; and

(3) ground force maneuvers of large units and divisions.

(c) **DISCUSSIONS WITH ALLIED COUNTRIES ON READINESS.**—

(1) **HIGH-PRIORITY JOINT RESPONSIBILITY OF SECRETARIES OF DEFENSE AND STATE.**—The Secretary of Defense and the Secretary of State shall give a high priority to discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(2) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives a report describing—

(A) the results of the discussions held under paragraph (1) and plans for future discussions;

(B) the measures agreed to improve the preparedness of foreign armed forces and civilians; and

(C) any proposals for increased military assistance, including assistance provided through—

(i) the sale of defense articles and defense services under the Arms Export Control Act;

(ii) the Foreign Military Financing program under section 23 of that Act; and

(iii) chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(d) **UNITED STATES ARMY CHEMICAL SCHOOL.**—

(1) **COMMAND OF SCHOOL.**—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(2) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(A) the transfer, consolidation, and reorganization of the United States Army Chemical School should not disrupt or diminish the

training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment; and

(B) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement facility at Fort Leonard Wood is functional.

(e) **REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, and on January 1 every year thereafter, the President shall submit a report to the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives, and the Speaker of the House of Representatives on previous, current, and planned chemical and biological weapons defense activities of the United States Armed Forces.

(2) **CONTENT OF REPORT.**—Each report required by paragraph (1) shall include the following information for the previous fiscal year and for the next three fiscal years:

(A) **ENHANCEMENT OF DEFENSE AND READINESS.**—Proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 General Accounting Office Report, titled "Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems", and steps being taken pursuant to subsection (b) to ensure that the United States Armed Forces are capable of conducting required military operations to ensure the success of United States regional contingency plans despite the threat or use of chemical or biological weapons.

(B) **PRIORITIES.**—An identification of priorities of the executive branch of Government in the development of both active and passive defenses against the use of chemical and biological weapons.

(C) **RDT&E AND PROCUREMENT OF DEFENSES.**—A detailed summary of all budget activities associated with the research, development, testing, and evaluation, and procurement of chemical and biological defenses, set forth by fiscal year, program, department, and agency.

(D) **VACCINE PRODUCTION AND STOCKS.**—A detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine.

(E) **DECONTAMINATION OF INFRASTRUCTURE AND INSTALLATIONS.**—A detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure and installations that support the ability of the United States to project power through the use of its Armed Forces, including progress in developing a nonaqueous chemical decontamination capability.

(F) **PROTECTIVE GEAR.**—A description of the progress made in procuring lightweight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battledress overgarments and chemical protective overgarments to maintain required wartime inventory levels.

(G) **DETECTION AND IDENTIFICATION CAPABILITIES.**—A description of the progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors.

(H) **THEATER MISSILE DEFENSES.**—A description of the progress made in developing and deploying layered theater missile defenses

for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats and will assist the mitigation of chemical and biological contamination through higher altitude intercepts and boost-phase intercepts.

(I) **TRAINING AND READINESS.**—An assessment of the training and readiness of the United States Armed Forces to operate in chemically and biologically contaminated environments and actions taken to sustain training and readiness, including at national combat training centers.

(J) **MILITARY EXERCISES.**—A description of the progress made in incorporating consideration about the threat or use of chemical and biological weapons into service and joint exercises as well as simulations, models, and wargames, together with the conclusions drawn from these efforts about the United States capability to carry out required missions, including with coalition partners, in military contingencies.

(K) **MILITARY DOCTRINE.**—A description of the progress made in developing and implementing service and joint doctrine for combat and noncombat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces.

(L) **DEFENSE OF CIVILIAN POPULATION.**—A description of the progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack and from the consequences of such an attack, including plans for inoculation of populations, consequence management, and progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

## SEC. 208. NEGATIVE SECURITY ASSURANCES.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that in order to achieve an effective deterrence against attacks of the United States and United States Armed Forces by chemical weapons, the President should reevaluate the extension of negative security assurances by the United States to non-nuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives a report, both in classified and unclassified forms, setting forth—

(1) the findings of a detailed review of United States policy on negative security assurances as a deterrence strategy; and

(2) a determination by the President of the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons against the United States Armed Forces, United States citizens, allies, and third parties.

(c) **DEFINITIONS.**—In this section:

(1) **NEGATIVE SECURITY ASSURANCES.**—The term "negative security assurances" means the assurances provided by the United States to nonnuclear-weapon states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) that the United States will forswear the use of certain weapons unless the United States is attacked by that nonnuclear-weapon state in alliance with a nuclear-weapon state.

(2) **NONNUCLEAR-WEAPON STATES.**—The term "nonnuclear-weapon states" means states

that are not nuclear-weapon states, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483).

**SEC. 209. RIOT CONTROL AGENTS.**

(a) **PROHIBITION.**—The President shall not issue any order or directive that diminishes, abridges, or alters the right of the United States to use riot control agents—

(1) in any circumstance not involving international armed conflict; or

(2) in a defensive military mode to save lives in an international armed conflict, as provided for in Executive Order No. 11850 of April 9, 1975.

(b) **CIRCUMSTANCES NOT INVOLVING INTERNATIONAL ARMED CONFLICT.**—The use of riot control agents under subsection (a)(1) includes the use of such agents in—

(1) peacekeeping or peace support operations;

(2) humanitarian or disaster relief operations;

(3) noncombatant evacuation operations;

(4) counterterrorist operations and the rescue of hostages; and

(5) law enforcement operations and other internal conflicts.

(c) **DEFENSIVE MILITARY MODE.**—The use of riot control agents under subsection (a)(2) may include the use of such agents—

(1) in areas under direct and distinct United States military control, including the use of such agents for the purposes of controlling rioting or escaping enemy prisoners of war;

(2) to protect personnel or material from civil disturbances, terrorists, and paramilitary organizations;

(3) to minimize casualties during rescue missions of downed air crews and passengers, prisoners of war, or hostages;

(4) in situations where combatants and noncombatants are intermingled; and

(5) in support of base defense, rear area operations, noncombatant evacuation operations, and operations to protect or recover nuclear weapons.

(d) **SENSE OF CONGRESS.**—It is the sense of Congress that international law permits the United States to use herbicides, under regulations applicable to their domestic use, for control of vegetation within United States bases and installations or around their immediate defensive perimeters.

(e) **AUTHORITY OF THE PRESIDENT.**—The President shall take all necessary measures, and prescribe such rules and regulations as may be necessary, to ensure that the policy contained in this section is observed by the Armed Forces of the United States.

Mr. KYL. Mr. President, I ask unanimous consent that Senator ABRAHAM be added as cosponsor to S. 495.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, let me say for the benefit of my colleagues, to whom we had indicated that we would try to ensure that we would have a vote on this matter at about 3:45, that even though, under the unanimous consent agreement, we have a half-hour to discuss this legislation in order to try to accommodate my colleagues, to set an example for those on the other side who may wish not to take their full compliment of time, that at this time I am going to express a willingness to discuss this bill no further but just take a couple of minutes to close and to relinquish the floor to those who may be in opposition, again with the plea to them that since we had earlier

advised colleagues that a vote would occur on this matter at about 3:45 that anyone who can possibly do so truncate their remarks in order to accommodate our colleagues.

Mr. BYRD. Mr. President, reserving the right to object, has the unanimous consent agreement not yet been agreed to?

The PRESIDING OFFICER. Yes. The unanimous consent agreement has been reached.

Mr. BYRD. Mr. President, I was in my office. I still have not had an opportunity—I am not blaming anyone for that—to read this agreement. But in listening to what was said, I thought I heard that a part of the agreement was to the effect that certain votes would occur by voice. Am I correct?

Mr. DASCHLE. Mr. President, if the distinguished Senator will yield, the agreement calls for a vote on the Helms amendments, and on the 28 amendments in agreement. It was stated by at least one of our colleagues that it was his hope that these votes would be voice votes, and the majority leader indicated that it was his desire to have a voice vote. But no one is precluded, of course, from calling for a rollcall as is his constitutional right.

So the distinguished Senator from West Virginia makes a good point. A Senator is not precluded. It is my hope, working with the majority leader, that we can have voice votes on these matters and that we can move ahead as the agreement anticipates. But certainly it is anyone's right to call for a rollcall on this or any other vote.

Mr. BYRD. Mr. President, my concerns have been allayed, and I thank the distinguished leader.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand the concern of the Senator from Arizona and others in wanting to move forward with S. 495.

Frankly, Mr. President, we may be seeking a greater good here on the chemical weapons treaty. Those who are opposed to it will feel that it isn't important that they have a chance to vote against it; but those who are for it, as am I, will feel it is important to have a chance to vote for it.

But S. 495 in my mind does not have such urgency.

In an effort to cooperate with the Democratic leader, and with the Republican leader, who is seeking to fulfill, I think, a responsible commitment to the President of the United States to have this bill up here, or to have the treaty up here, I did not object to S. 495, the Kyl bill, coming up. But, Mr. President, I would point out that this is a bill that was introduced—the first version of it was introduced and referred to the Senate Judiciary Committee a day or two before our last recess. There has never been a hearing on it. There has not been 21 seconds of debate on it in the Senate Judiciary Committee, and today we have before

us a 70-page and a 70-page substitute for it. We are going to be asked sometime in the next few minutes to vote on a substitute for S. 495. We are going to be asked to vote on a bill that has had no hearings, no debate in committee, no markups, no votes, no report, and no discussion.

I am willing to wager that there will not be more than five Senators who can walk off the floor and tell people honestly, looking them straight in the eye, and say they read it and understood what is in it.

In fact, I would make this challenge to the press. I would make this challenge to the press of every one of the 50 States. I would ask, if the press really wants to do their job, to do this: Call each of the Senators. All it requires is for the press in each State to call up only two people immediately after the vote on S. 495, and say, "Did you read this bill that you just voted on? Did you understand what was in this bill you just voted on? Could you explain this bill to me that you just voted on?" And if somebody says they voted for a major issue like this, then I think it is reasonable to ask, "Did you read it? Did you understand it? Do you know what is in it?"

There may be some very good things in the bill. I have heard that it borrows much from the administration's proposals for implementation legislation. I understand that there are some aspects of it that are very similar to legislation that I introduced. And that may very well be so. There may well be some parts of this bill that I would eagerly support and vote for. But the fact of the matter is I do not know and am not being given an opportunity to find out, let alone have hearings or an opportunity to seek to improve the bill.

We have not had an opportunity or the benefit of discussion. We have not had the opportunity or the benefit of debate—and we will not have debate on it today.

The sole reason it is up here under this expedited procedure is to give some kind of cover one way or the other to bring up the chemical weapons treaty. What we have is the majority insisting that we consider, without review, a revised substitute version of a bill that was not made available to us until this afternoon.

Nobody has said in the Senate Judiciary Committee this could not have a prompt hearing. Certainly I would support the chairman of the Senate Judiciary Committee, Senator HATCH, if he wanted to have a prompt hearing on it.

The principal sponsor of the bill, the distinguished Senator from Arizona, would certainly pursue it strongly through the committee, and I have no doubts that he would be able to explain it very, very well in the committee and answer any questions that might come up. He is a diligent and hard-working Senator who would be able to do that. But under this procedure, we will never know. This committee has a majority

of Republicans, as all Senate committees do, but yet the committee will never vote on it.

The majority leader, who is my good friend, has always described himself as one who seeks regular order. I think the Washington Post had a front-page story on December 3, 1996, in which they quote the Senator describing himself as an "order" kind of guy.

I recall when our distinguished majority leader came to the floor and said:

There is a way to do things around here. You bring up a bill reported by a committee, have debate, offer amendments, you vote, and win or lose, and you move on, and then it goes to conference.

Well, we are not bringing up a bill reported by a committee. We are really not going to have debate. We are not going to offer amendments. We will vote. And that is about the only reflection of order.

If we were considering a resolution to commend the cherry blossom princess or to say we will open the doors of the Senate 5 minutes early or something like that, I could understand. Instead, we are talking about a 70-page bill which is to provide criminal and civil penalties for acquisition, transfer, or use of any chemical weapon or biological weapon, to reduce the threats of acts of terrorism, armed aggression, and so on. This bill refers to patent law, to chemical and biological weapons, to aircraft, and to continuation and enhancements of multilateral control regimes. It refers to the Australia group—I would like to have five Senators stand up and tell me what the Australia group is, to the Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement. These are major things. Vaccine production and stocks, decontamination of infrastructure are also serious matters and we have not had any hearing, any debate, any discussion of it. The bill refers to owner or possessor liability and warrantless seizures and seizures on warrants and reimbursement of costs, saying how people will have to pay the United States certain amounts of money under certain circumstances and all. This may be heady stuff, Mr. President, very heady stuff.

Now, we have had the Chemical Weapons Convention before us since November 1993. It has been bottled up in committee. We have the April 28, 1997, deadline approaching after which our lack of ratification risks economic sanctions against our chemical industry. This could cost U.S. chemical companies hundreds of millions of dollars. We are talking about thousands of jobs and hundreds of millions of dollars on something that has been stalled, stalled for years.

Now but all of a sudden, whoop-de-do, we have a bill and a substitute bill and the Senate is to take 12 minutes and go ahead with it.

I am afraid that without proper review of the domestic law changes in criminal laws against chemical and bi-

ological weapons, we may inadvertently weaken protections already in the law. I know my friend from Arizona does not intend to weaken our laws, but that could be the effect of this bill.

There is no need for this irregular procedure. We ought to be able to take a look at S. 495. I would have no objection to its coming up in regular order after hearings, but it is not a substitute for the Chemical Weapons Convention. It is not a substitute or alternative to implementing legislation.

After we delayed something that President Reagan had negotiated, something that President Bush had negotiated, something that President Clinton had negotiated, the Chemical Weapons Convention, after we delayed it for year after year after year, now we are going to take up in less than 3 hours and pass this 70-page bill that nobody has read. We delay something that has been debated, argued, considered, we delay that for years, but then we take a major piece of legislation that nobody has seen and do not even debate it and it is out the door. Something has gone wrong here.

On April 15, every American had to file their taxes or the IRS comes after them. That is the law. We also have a law that says that the House and the Senate shall pass a budget by April 15. With all due respect to my friends on the Republican side, they control the Speaker of the House, they control the majority in the House, they control the majority leader and a majority in the Senate, but we have not had one second of debate on a budget resolution even though the law requires them to pass it by April 15.

April 15 comes and goes. Can you imagine, Mr. President, if you took that same attitude in filing your taxes and said well, you know, I am busy, I cannot do it. You would hear the doorbell ring and there would be the IRS after you. But nobody comes after us for doing the same thing.

We have nearly 100 vacancies on the Federal bench, and we cannot get a quorum in the Judiciary Committee to report them out.

Yet this 70-page major piece of legislation suddenly comes zipping forth. There are a lot of problems in it. As I said, there may be some things I like. But it says, for example, the bill would prohibit the production of 16 specific chemicals and 54 more already controlled by the Australia group. Do we know what chemicals are in this bill that would be criminalized? I doubt that any one of us could even pronounce the chemicals. We do not know what we are voting to ban?

The bill prohibits any other chemical that may be developed that produces the same effect as the other listed chemicals. I take it this means chemicals developed in the future. But what about other terrible weapons that now exist? Would chemical weapons that exist now but not listed in the bill be OK? What deadly chemicals that are prohibited under current law, which

has a far broader definition of chemical weapons, would be freed from criminal penalties?

We have had no answer. This bill repeals the two major chapters of the Federal Criminal Code dealing with biological weapons and with chemical weapons. The ink is barely dry on the chemical weapons law that this legislation would repeal. The chemical weapons statute became law as part of the Antiterrorism and Effective Death Penalty Act of 1996. It was enacted April 14, 1996. It is barely 1 year old and we are going to repeal it without a single hearing, single expert comment about what might be wrong with a bill that we passed a year ago. Do we replace it with a stronger law? No.

First, the definition of chemical weapons that will be banned under this bill is far more limited than the chemical weapons banned under current law.

The bill has a number of exemptions to the overall prohibitions on chemical and biological weapons that are far broader in scope than what are in current law. For example, current law bars chemical weapons for anything but lawful authority. This bill replaces that limited, circumscribed rule with five extensive exemptions including for any peaceful purpose related to any activity.

What does that mean? Is that an exemption any enterprising terrorist or criminal caught with a chemical weapon could use to great advantage? Someone could make a strong argument that way.

While there are parts of the bill I may well like, there are a lot of other parts that raise unanswered questions. Again, any Senator who votes for this, I would challenge the press in his or her State to ask: You voted for it, do you know what was in it? Did you read the bill? Did you understand the bill? Were all your questions answered? Did you feel you repealed any criminal laws we now have that we should have kept?

Mr. President, we spent far, far, far more time this week in quorum calls when we did nothing than we have on hearings on this bill. We spent more time voting on a 100-to-0 resolution on assisted suicide to make us all feel good. We spent far more time on that than we have hearings on this bill. Mr. President, we spent more time with the Chaplain's prayer this morning than we spent on hearings on this 70-page bill. We spent more time saying good morning to each other this morning than we have had in hearings on this 70-page bill. It takes more time for the elevator to go from the second floor to the first than we have had in hearings on this 70-page bill.

I do not fault the Senator from Arizona for this. The leadership is willing to bring it forward, and if it is his legislation, then he is obviously going to go for it.

But before the Senate becomes irrelevant, if we do not have time and will not even follow the law, which requires

us to have a budget by April 15, if we only had time to confirm two Federal judges in 4 months and we have a 100-judge vacancy, if we do not have time to have 18 seconds of debate on the budget, if we can bottle up the chemical weapons treaty for years, following the support of President Reagan, President Bush and President Clinton, why in Heaven's name do we suddenly have to come rushing forth with something we do not need now and we do not have to have now?

If we are going to have an expedited process, I think the emergency should be the leadership bringing forward the budget that the law requires. If we have urgency for something, fill some of those judgeships. After all, the Chief Justice has said that is a judicial crisis. If we have urgency for something, let us take something that has actually had a hearing.

So with all due respect to the sponsors of this bill and knowing there are parts of the bill as I have read them that I like, there are a lot of other parts that raise far more questions than are answered in my mind. I will oppose it. I would find extremely interesting the explanations of those who vote for it.

I see the distinguished sponsor of the bill, and I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I just want to respond to a couple of things my distinguished colleague has raised. He is certainly correct to point out the fact that in my view there has been inadequate attention paid to this entire subject. I wish we could spend a lot more time debating the Chemical Weapons Convention, as a matter of fact, but in an effort to meet the deadline imposed or that the administration has indicated it needs to meet, we have had to accord a great deal of debate and consideration of items into a very small period of time.

I desperately wanted to spend more time on the Chemical Weapons Convention, but in order to agree to get that done on time, we have all made some compromise agreements of how much time to take on things. That is why there is not much time taken on this legislation. The one thing I did want to assure my colleague of, and that is the portions where he sees sections having been repealed, those sections were picked up in a new title under title I, section 101, chapter 11(B) and the following.

Essentially what was done, I assure my colleague, is the chemical and biological provisions of the code were combined and the same activities that are illegal as to one are now illegal as to both with the same penalties. So nothing was dropped from the law; it was merely consolidated in a different place. The definition of chemicals, incidentally, is the same definition that is contemplated by the Chemical Weapons Convention.

I might also note, the subject matter here has been debated and was the subject of hearings really for the last 3 years in the Senate Foreign Relations Committee, by and large, and the exact language of this legislation has been aided by the FBI and others in the administration as well.

My colleague is correct, it would be better to have more time to spend not only on this bill but on the Chemical Weapons Convention itself. In an effort to try to get all of this done under the timeframe the administration is working under, we have all made compromises. I would like a lot more time to brag about what is in this bill, but I agreed to keep my remarks to a couple minutes.

I will not take more time at this point. I appreciate the spirit in which the comments of the Senator from Vermont were made.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Vermont controls 10 minutes 35 seconds. The Senator from Arizona controls 25 minutes 33 seconds.

Mr. LEAHY. Mr. President, the opposition will soon be led by the ranking member of the Foreign Relations Committee. I guess I will yield my time to him. I will speak 1 more minute until he arrives, and then I will yield the floor.

I understand what my friend from Arizona says about wanting to vote for it now, but we do not need S. 495 now. The clock is ticking on the chemical weapons treaty. It was ticking on it last year, the year before, and the year before that. It ticks right up until midnight April 28. If there is anything we have to vote on and should vote on as responsible Senators, either vote up or down, it is the chemical weapons treaty. S. 495 can wait for the normal hearing route.

When you have the merger of current chemical and biological weapons chapters in the criminal code but with different definitions and different exemptions for lawful conduct, this is a matter we ought to at least debate.

Again, I urge everybody to ask and whether members can look their constituents in the eye and say in this 70-page major piece of legislation on chemical weapons, can they say they read it, they understood it, and they are prepared to vote on it?

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I have time remaining, and I am perfectly happy to yield back almost all of that time in an effort to get this matter to a vote. I urge my colleagues on the other side, if they have opposition, to please make their arguments in opposition so we can bring this to a vote and our colleagues can try to catch their airplanes, which I know they are trying to do.

Until someone is here to speak, I will reiterate the basic point of the legislation. I do urge my colleagues who may be in opposition to please come to the floor to make their arguments to try to accommodate our colleagues.

This legislation, again, Mr. President, is simply designed to complement the provisions of existing law and is also complementary to the Chemical Weapons Convention. It does not create a great deal that is new, but rather plugs loopholes in existing law. We noted, for example, that while it is illegal for one to manufacture and possess and use biological weapons in the United States, we have overlooked passing a law that makes it illegal to manufacture or possess chemical weapons. If we are going to be serious about the chemical weapons business and trying to prevent proliferation, obviously we need to make that conduct illegal as well. We do that in this legislation.

It is not anything Members should have concern about. In fact, they should want that. Who would be against providing the President a little more flexibility and imposing sanctions on countries that violate international law by using chemical or biological weapons?

Who could be against asking the President of the United States to do his best to keep the Australia group together, working as a group of countries in the world that do not sell chemicals, precursor chemicals, to nations that might make chemical weapons of them? It is the policy of the United States, and a sense of the Senate, that the President should ensure that the Australia group restrictions are not weakened in any way. That is consistent totally with the Chemical Weapons Convention. Again, I cannot imagine anyone objecting to that.

We continue the conditions that were imposed in the 1996 defense authorization bill on aid to Russia, which is designed to help them dismantle their chemical weapons. We say they have to demonstrate reasonable progress toward that dismantlement. We pick the same language that was the subject of the Nunn-Lugar compromise in the 1996 defense authorization bill. What we have done is simply to continue that same requirement of Presidential certification of compliance by Russia, or, if all else fails, the President can certify that he cannot certify, and we still send the money to them. So it is not a condition I can imagine anyone would object to. If anything, we would want to make it stronger.

Our legislation calls for an annual report on the state of proliferation of

chemical and biological weapons, something that the Congress needs in order to work with the President in doing everything we can to stop the proliferation of these weapons.

We ask the President to convene a group of nations to try to put some teeth into the Geneva protocol, which is the treaty that currently bans the use of chemical weapons. Like the Chemical Weapons Convention, it does not have strong teeth in it. So we are urging the President to try to get a group of nations together to try to do that. Again, I cannot imagine any opposition to that.

We provide our military be better protected against chemical warfare. The GAO issued a report last year that found grave deficiencies in the way that our troops were being equipped and trained to deal with chemical warfare and biological warfare. That needs to be remedied, and we have three specific things in here that we think will help the Defense Department in ensuring that our troops are adequately protected.

One of the things that we recommend, for example, is that the U.S. Army Chemical School remain under the oversight of a general officer, just to make our point that we think this is an important matter, and certainly at least a one-star general ought to be in charge of that facility and that operation.

We provide for a fixed riot-control agent problem, Mr. President. This is the problem that has arisen because this administration has signaled an intention to change the understanding that has been in existence since President Ford's days when the opportunity to use riot-control agents, or tear gas, was said to be permitted in certain instances where it would help to save lives. For example, where we have a downed pilot that is being held by a group of hostile civilians, we can rescue that downed pilot, not by shooting civilians but by the use of tear gas. Where you have a group of civilians protecting someone that you want to get out, or you want to control a group of hostile prisoners of war, that kind of thing, you do not want to shoot anybody, you can do it with riot-control agents, tear gas. We want to assure that is possible under the law.

These are the things that are the key elements of S. 495, Mr. President, and there should not be anything controversial here. It should be provisions that all of us can support. We simply identified each of these items in the course of all of the hearings and all of the debate about the Chemical Weapons Convention and found there were a lot of practical things we could do in legislation.

Bear in mind, this legislation has to go over to the House, it has to pass the House, it has to go to the President. Therefore, there are plenty of scrubs on it, even though the Senate has not had a great deal of opportunity to debate it.

I hope that our colleagues, if there is anyone else in opposition, will say so and we can get on with a vote on this matter pursuant to the unanimous-consent agreement.

Mr. President, I ask unanimous consent that if there are any more quorum calls, that the time be subtracted equally from both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I would like to begin my comments on S. 495 with two observations. First, if the United States desires to be an original member of the Chemical Weapons Convention, this body must act to ratify this treaty within the next 7 days. Second, the whole world is watching what we say and do on the CWC—a treaty that I believe is one of the most important arms control agreements this body will consider for many years to come.

Having made these observations, one would think the Senate would be moving to immediate consideration of the Chemical Weapons Convention. Instead, the Senate unfortunately finds itself debating S. 495—a bill that its most ardent supporters have characterized in recent days as the conservatives' substitute to the Chemical Weapons Convention.

I must tell the Senate that despite these claims, S. 495 is not the Chemical Weapons Convention. In fact, I think it's safe to say S. 495 is not even a distant relative of the Chemical Weapons Convention. And, as former Democratic leader George Mitchell was fond of reminding many of his colleagues at moments like this, saying something repeatedly does not make it so.

Mr. President, the Chemical Weapons Convention offers this Nation an oasis of security in an increasingly threatening world. S. 495 offers us a mirage—a mirage, that if pursued, would jeopardize our national security and our economy.

First, Mr. President, S. 495 only requires the United States to do what it is already doing under an existing law signed by President Reagan in 1986—destroy our stockpile of chemical weapons. S. 495 does absolutely nothing to force other nations to eliminate their stocks of these deadly materials.

Second, the supporters of S. 495 act as if the CWC does not exist at all. S. 495 directs the Secretary of State to negotiate a whole new agreement. The purpose of this new agreement would be to enhance enforcement of an old agreement—the 1925 Geneva protocol. The Geneva protocol merely prohibits the use of chemical weapons. If you care about getting tough on chemical weapons, CWC is the only real answer. CWC bans the development, production, and stockpiling of chemical weapons as well as their use.

Third, S. 495 does nothing to address the trade sanctions that would hit the American chemical industry if we fail to ratify the CWC. Everyone needs to

understand that this treaty will take effect with or without us on April 29. Without U.S. ratification of the CWC, U.S. firms will immediately have to secure end-user certificates for the export of chemicals. The implications for U.S. business will be as swift as they are costly.

Finally, I must note with a bit of irony that, according to legal experts who have examined this bill, S. 495, the so-called Chemical and Biological Weapons Threat Reduction Act of 1997, may actually weaken existing law in the very same areas it seeks to toughen them up. As a result of exemption clauses in this bill, passage of S. 495 could undercut the very purpose of the bill itself.

In closing, Mr. President, I ask the Senate not to pursue this mirage. S. 495 is not a real substitute for the Chemical Weapons Convention. I ask that the Senate reject this false vision and that we then get on with the real debate—consideration of the Chemical Weapons Convention.

Mr. CRAIG. Mr. President, the Chemical Weapons Convention has such far-reaching domestic and national security implications that it deserves the most thorough and thoughtful examination by the Senate. I have given this matter a careful review and now rise to discuss some of the conclusions I have reached.

If I thought supporting this treaty would make chemical weapons disappear, and give us all greater security from these heinous weapons, I would not hesitate in giving my support. Unfortunately, the facts do not demonstrate this; indeed, implementing this treaty may actually create opportunities for security breaches.

The Convention has been signed by 160 nations and ratified by only 70—less than 50 percent. Five countries who are thought to have chemical weapons are not even signatories of the Convention: Egypt, Iraq, Libya, North Korea, and Syria. Another six nations have signed, but not ratified the Convention: China, India, Iran, Pakistan, Israel, and Russia. In short, this Convention is not global in scale.

Mr. President, even if it were true that this treaty had been signed and ratified by 160 nations, serious problems would remain. Compliance with the Chemical Weapons Convention is not verifiable. I think it is timely and appropriate to remember the principle President Reagan insisted upon when negotiating an arms control treaty—trust, but verify. Unlike nuclear weapons which require a large, specialized industrial base, chemical weapons can be manufactured almost anywhere. Moreover, many lethal chemicals are common and have peaceful uses. Chemicals help us to manufacture products such as pesticides, pharmaceuticals, plastics, and paints. With such a broad spectrum of uses, it would be difficult to discern the legitimate from the illicit.

Even if verification of compliance were not a concern, this treaty would

be difficult to enforce. In a sound arms control treaty, the United States must be able to punish other countries caught in violation of the agreement. The Chemical Weapons Convention provides only vague, unspecified sanctions to be imposed on a country found in breach of the Convention. Ultimately, the Chemical Weapons Convention leaves the U.N. Security Council to impose penalties severe enough to change behavior out an outlaw nation. Since any one of the five members of the Security Council can veto any enforcement resolution lodged against them or their friends, China and Russia, for example, could simply veto resolutions imposing sanctions if they disagreed with other Security Council members. In sum, Mr. President, it does not appear that this agreement is verifiable or enforceable.

Appropriate questions have also been raised about the treaty's compatibility with our Constitution. The Convention creates an international monitoring regime called the Organization for the Prohibition of Chemical Weapons, or OPCW. The OPCW will be granted the most extensive and intrusive monitoring power of any arms control treaty ever because it extends coverage to governmental and civilian facilities.

The intrusive nature of this treaty brings up important issues in regards to our citizens' constitutional protection against unreasonable search and seizure of private property. Mr. John Yoo, an acting professor of law at the University of California at Berkeley wrote yesterday in a Wall Street Journal op-ed that "Under the CWC, a drug dealer running a crack house will have more constitutional rights than the law-abiding operator of a chemical plant." Proponents of the Chemical Weapons Convention have suggested that there are a wide variety of solutions to the constitutional problem. However, the Chemical Weapons Convention states that it is "unlawful to disrupt, delay, impede an inspection or refuse entry of an inspection team." It appears as though this treaty is incompatible with our Constitution.

Furthermore, Mr. President, I do not want to look for ways to get around the so-called constitutional problem. If the treaty flies in the face of rights protected under the fourth and fifth amendments, we cannot and should not ratify.

The authority of the international monitoring regime also raises concern about foreign nationals having such broad authority to obtain access to property held by private U.S. citizens. The U.S. chemical industry is known to be one of the top industries targeted for espionage by foreign companies and governments. There is legitimate worry that international inspections could jeopardize confidential business information, trade secrets, and other proprietary data. Since the United States will be expected to pay 25 percent, or approximately \$50 million, of the OPCW's operating costs, American

tax dollars could be subsidizing increased risk for U.S. business interests. And even though we would pay the lion's share of the OPCW's budget, the United States would have no special status over other signatory nations, no veto power, and no assurance of being a member of the executive council.

Despite my objections to ratification of the Chemical Weapons Convention, I believe Senator KYL's Chemical and Biological Threat Reduction Act will help protect our citizens and troops from the threat of chemical and biological weapons. This bill would establish workable national policies for confronting the chemical and biological weapons threats, while not jeopardizing our national security like the CWC.

Currently, there exists no U.S. law providing comprehensive criminal, civil, and other penalties for the acquisition, possession, transfer, or use of chemical or biological weapons. Senator KYL's bill would impose stiff criminal and civil penalties for illegal possession of chemical weapons. The death penalty could be a punishment for an individual who causes the death of another through this bill.

The Chemical and Biological Threat Reduction Act also imposes mandatory sanctions against nations that use biological and chemical weapons against other countries or their own citizens. Unlike the Chemical Weapons Convention that only vaguely defines sanctions which could be thwarted by the U.N. Security Council, this bill would automatically terminate foreign assistance, suspend arms sales, impose import and export restrictions, and end financial assistance from multilateral banks. This act also would improve the readiness of U.S. military forces against chemical weapons attacks by improving troop preparedness.

In view of some of the contacts I've had from Idahoans concerning Senator KYL's bill, I think it's important to point out that this bill does not ratify the flawed Chemical Weapons Convention. It would enhance our own methods to deal with chemical terrorism without making us vulnerable to the defects of the Chemical Weapons Convention.

Mr. President, making the production and possession of chemical weapons illegal according to international law will not make them disappear. Use of such weapons has been prohibited since 1907, yet we have seen the results of their use. We all know about the tens of thousands of deaths from poison gas in World War I, and no one could forget the tragic photographs of the Iranian children killed during the 1980's by the Iraqi Government. Illegal? Yes, but still in use, nonetheless.

Mr. President, I stand today with all Americans expressing a grave concern over the increasing proliferation of chemical and biological weapons. The real question here seems to be whether ratification of the Chemical Weapons Convention will increase our own national security. Unfortunately, the an-

swer is no. There is little value in implementing international laws which do little to decrease illegal research, development, and proliferation of chemical weapons worldwide.

I support the goal of making the world safe from the threat of chemical weapons. I applaud the honorable statement the CWC makes against these heinous weapons. However, I believe the best way to protect ourselves from this threat is by rejecting this treaty. The Convention does nothing to better our security, but may even open the door to increasing risks against our vital security interests and infringing on the rights of innocent citizens. For these reason, I am compelled to vote against the ratification of the Chemical Weapons Convention.

Mr. ALLARD. Mr. President, today I rise as a cosponsor and supporter of S. 495, The Chemical and Biological Weapons Threat Reduction Act of 1997. This bill will truly provide the United States the tools it needs and deserves from chemical and biological weapons. It is a comprehensive domestic and international plan to reduce the threat of chemical and biological weapons use, setting forth practical, realistic, and achievable nonproliferation measures to combat the very real dangers posed by these weapons.

Because of the horrible nature of these weapons, the United States has dismantled its biological weapons program and is now unilaterally destroying its entire stockpile of chemical weapons. This bill reinforces our commitment to finish the job.

S. 495 contains many provisions that will improve our ability to protect our citizens and military against these deadly weapons. The bill imposes criminal, as well as civil, penalties for the development, production, stockpiling, and transfer of chemical and biological weapons. Penalties range from civil action of up to \$100,000 per violation to the death penalty on individuals who use chemical weapons which cause death to another.

Also, the export privileges of violators can be revoked as well. And, it preserves the system of multilateral export controls on biological and chemical materials and technologies, better known as the Australia group.

For our Armed Services, it strengthens U.S. biological and chemical defense programs and it preserves the military's ability to use riot control agents, such as tear gas. It also requires the President to review the policy of negative security assurance to widen U.S. options to respond with nuclear weapons against such an attack by a nonnuclear weapons state.

For foreign countries who use biological or chemical weapons in war or against its own citizens, mandatory 3-year sanctions are imposed as listed in the bill. Plus, it calls an international conference to strengthen the existing 1925 Geneva Protocol. Lastly, it requires Russian cooperation in disarmament of CW/BW weapons in return

for continued U.S. assistance for dismantling these weapons of mass destruction. This applies only to CW/BW destruction and not to any other Russian assistance, such as the Nunn-Lugar programs.

I hope all my colleagues support S. 495. It toughens our domestic laws on those who use these weapons. For all the talk about chemical weapons, little has been done domestically to punish users of these horrible weapons. This bill will do just that. Support this bill and let's make it known that we will not tolerate the use of these weapons against American citizens or any other people.

Mr. BOND. Mr. President, I rise today in support of S. 495, the Chemical and Biological Weapons Threat Reduction Act of 1997. In the wake of World War I, nations from all around the world came together to sign the 1925 Geneva Protocol. Having witnessed the horrible effects of poison gas in battle, this agreement banned its use in interstate conflict. However, at the time no provisions were made in U.S. law to establish criminal or civil penalties pertaining to such weapons.

Today, for the first time, legislation has come to the Senate floor that provides criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical or biological weapon and gives domestic law enforcement authorities the needed legal basis to enforce prohibitions on chemical weapons activities within the United States. Most importantly, in light of recent domestic terrorist attacks and the actual release of Sarin gas in a Tokyo subway, S. 495 allows the death penalty for the use of chemical or biological weapons that leads to the loss of life.

From the international perspective, this legislation conditions continued United States aid to Russia for chemical and biological weapons dismantlement and destruction upon Russia demonstrating that it is abiding by existing agreements in this area. It urges enhancement of multilateral regimes to control trade in chemical and biological weapons-related materials, while requiring that the United States continue strengthening chemical and biological defenses, particularly in terms of equipment and training. Finally, S. 495 establishes, for the world, U.S. policy on the use of riot control agents and permits the use of tear gas for such things as the rescuing of downed pilots.

The Chemical and Biological Weapons Threat Reduction Act of 1997 augments existing international norms and agreements by establishing a framework for U.S. sanctions against nations which use chemical or biological weapons and by directing the Secretary of State to convene an international negotiating forum for the purpose of reaching an agreement on the enforcement of the 1925 Geneva Protocol which bans the use of chemical weapons in war.

I wish to point out that supporting S. 495 is not in conflict with the ratifica-

tion of the Chemical Weapons Convention. Instead it complements the CWC by reducing the threat of acts of terrorism and armed aggression against the United States involving chemical and biological weapons. Therefore, I urge my colleagues to support this legislation and take a step toward making our country safer with a comprehensive plan that provides realistic and practical measures to combat the dangers of these repugnant weapons.

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed for not to exceed 1 minute as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Vermont may proceed.

#### SENATE TRADITIONS

Mr. LEAHY. Mr. President, I just had reason to go and check the RECORD on something and realized a change had been made in the Office of the Official Reporters of Debates. In the 22 years I have been here, it has been right off the floor, which is the logical place for that office to be.

I guess I am sort of a traditionalist. I believe that traditions that work should take precedence over perks that some may want. Frankly, I have no idea who made this decision to do all these changes. I do not think it is a good one. As a Senator who prefers tradition over perks, I wish things would go back to the way they were. Sometimes we should realize as Senators, we are only here temporarily. The Senate outlasts us.

Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

#### CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. THURMOND. Mr. President, I rise in support of S. 495, the Chemical and Biological Threat Reduction Act of 1997, offered by the Senator from Arizona, Senator KYL, and others.

There has been criticism of this legislation by Members of the Senate as

well as by the administration. The criticism largely centers around charges that it falls short as an alternative to the Chemical Weapons Convention [CWC].

I do not know what the outcome will be of the Senate vote on advice and consent to ratification of the Chemical Weapons Convention. This legislation could possibly be an alternative in the event two-thirds of the Members present do not vote for the treaty. On the other hand, it may also complement the treaty, if it passes.

I want the RECORD to be clear, whatever the outcome of the vote on the CWC, I support efforts by the Senate to provide comprehensive criminal, civil, and other penalties for the acquisition, possession, transfer, or use of chemical or biological weapons. I also want the RECORD to reflect my continued support for the destruction of the U.S. unitary stockpile.

I urge my colleagues to vote for S. 495.

Mr. HUTCHINSON. Mr. President, I proudly stand here today as a cosponsor of S. 495, Senator JON KYL's Chemical and Biological Weapons Threat Reduction Act of 1997. First and foremost, I want to thank the good Senator from Arizona for his commitment and hard work regarding chemical and biological weapon threats. This legislation certainly provides a comprehensive domestic and international plan to reduce the threat of chemical and biological weapon use.

It sets forth practical, realistic, and achievable nonproliferation measures to combat the very real dangers posed by these weapons.

Today the U.S. Senate will vote on the Chemical and Biological Weapons Threat Reduction Act. Mr. President, for the first time in U.S. history, we will have legislation that provides the needed criminal and civil penalties against those who produce, stockpile, and transfer chemical weapons in the United States.

Mr. President, as this body begins debate on the chemical weapons issue, I wholeheartedly believe that S. 495 will not only reinforce our strong commitment to eliminating chemical and biological weapons, but more importantly this legislation will provide our domestic law enforcement authorities the needed legal basis to enforce prohibitions on chemical weapons activities within the United States.

I have heard the arguments against S. 495, including that it amounts to the "U.S. go at it alone," approach. However, Mr. President, this bill sets forth a strong moral example for other nations to follow and in doing so underscores our commitment to global nonproliferation efforts.

Furthermore, through the Australia Group, the United States and its principal international partners have worked together to prevent the transfer of dual-use chemicals and chemical